

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-220476.2 DATE: October 23, 1985

MATTER OF: Midwest Holding Corporation--Request
for Reconsideration

DIGEST:

Information available to show a protest is timely must be submitted at the time of the initial protest and not with a request for reconsideration of the dismissal of the initial protest.

Midwest Holding Corporation requests that we reconsider our dismissal of September 27, 1985 of its initial protest B-220476 filed on September 26, 1985, concerning the rejection of its low quotation submitted to the Department of the Air Force in response to request for quotations (RFQ) No. F04700-85-Q-4646. We dismissed the protest as untimely under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (1985), because the protest was not filed within 10 working days after the basis of protest was known, or should have been known. Midwest contends that the dismissal was the result of an ambiguity in its initial protest. We affirm the dismissal.

Our Office will reconsider a decision when the party asking us to do so specifies any errors of law made or information not previously considered. See 4 C.F.R. § 21.12(a). Information not previously considered refers to information which was previously overlooked by our Office or information which the requester did not have access to when the initial protest was pending. S.A.F.E. Export Corp.--Request for Reconsideration, B-215022.4, Sept. 17, 1984, 84-2 CPD ¶ 298.

The part of Midwest's initial protest on which we primarily based the dismissal reads as follows:

"Midwest submitted one of three bids for air cooled refrigeration units under the solicitation. On August 20, 1985, Midwest received the Governments notice that, although Midwest was low bidder, its bid was not

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technically acceptable. Specifically, the Government stated that a 'Technical Evaluation by using organization states dimensions on low bid item unacceptable,' See Abstract of Award appended hereto as Exhibit '1.'

Midwest now contends that while it learned of the rejection of its bid on August 20, it did not learn of the basis for its protest until it received the abstract of award on September 23. Since its initial protest was received by us on September 26, Midwest believes that it was timely.

We have recently held that protesters have the obligation to furnish, at the time they initially protest to us, all relevant information bearing on the timeliness of the protest. See Global Crane Institute-Request for Reconsideration, B-218120.2, May 28, 1985, 85-1 CPD ¶ 606. In that case, we affirmed our dismissal of the protest as untimely because the protester did not advise us, until it requested reconsideration, that it previously had filed a timely protest with the contracting agency; had that information been provided in the protest initially, we would have viewed the protest as timely. In affirming the dismissal, we pointed out that in view of the statutory requirements for prompt resolution of protests imposed by the Competition in Contracting Act of 1984, 31 U.S.C.A. § 3554(a)(1) (West Supp. 1985), it generally would be inappropriate for us to later consider information that the protester could have presented initially.

We think the same rationale applies here. Midwest knew when it learned of the basis for protest, yet did not indicate that in its protest; instead, it referred to a much earlier date which made the protest, on its face, untimely. Under these circumstances, we will not now consider the protest on the merits.

The prior dismissal is affirmed.

for *Seymour E. Evers*
Harry R. Van Cleve
General Counsel